IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT

JODHPUR.

ORDER

Dr. Anil Sharma & anr. vs. The District Legal Services Authority & ors.

S.B. Civil Writ Petition No.1542/2003 under Article 226 of the Constitution of India.

Date of Order: November 21st , 2005.

PRESENT

HON'BLE MR. PRAKASH TATIA,J.

Mr. M.S. Singhvi for the petitioner.

Mr. Manish Shishodia for the respondents.

BY THE COURT:

By this writ petition, the petitioners are seeking relief of declaration that proceedings taken before the Permanent Lok Adalat in Claim Case No.13/2003 may be declared illegal and be quashed.

According to the petitioners, petitioner no.2, wife of petitioner no.1 owns a private Hospital at Kankroli which is Sharma Hospital. Petitioner no.1 being doctor, is also working in the said Hospital as

Surgeon. Three applications under Chapter VIA of the Legal Services Authorities Act (for short "the Act of 1987") were filed before the Legal Services Authority-respondent no.1, out of which one was filed by respondents no.3 and 4 which was registered as application no.14/2003. By this application, respondents no.3 and 4 claimed damages from the petitioner and from Dr. Nitin Gadgil in respect of death of their father Chandra Singh Babel. In this petition, the compensation of Rs.10,00,000/- was claimed by the petitioners. Another application, which was registered as application no.13/2003, was filed by Smt.Pista Devi claiming compensation of Rs.10,00,000/- on the ground of damages which she suffered due to death of her husband and the third application being No.12/2003 was filed by Shanker Lal, father of late Shri Chandra Singh Babel claiming compensation to the tune of Rs.6,20,000/-. The claims were filed because of the death of the victims in the hospital and on account of the same incident, a criminal case in respect of the same incident out of which compensation is claimed by the applications-respondents no.2 to 4, has been lodged. According to the petitioner, in view of the provisions contained in first proviso to Section 22C(I) of the Act of 1987, the claim applications were not maintainable. It is also contended that since the filing of the claims in all the three applications amounted to Rs.26,20,000/-, the same was beyond the jurisdiction of the Permanent Lok Adalat. When this

objection was raised, an application for withdrawal of case no.12/2003 was submitted before the Permanent Lok Adalat and another application was submitted for withdrawal of claim application no.14/2003. In claim case no.13/2003, the claimants submitted application for amendment of the claim petition making the total claim to the tune of Rs.10,00,000/- and to include names of her both the children in this claim petition. Reply was filed by Smt. Pista Devi in claim case no.13/2003. The Permanent Lok Adalat permitted withdrawal of the claim applications no.12/2003 and 14/2003 and also allowed the amendment in claim case no.13/2003 as desired by the claimants. The Permanent Lok Adalat instead of deciding objection about maintainability of the claim petition of the claimants, directed the petitioners to file reply to the claim cases and fixed date as 22.4.2003.

According to the petitioner, the claim petitions are not maintainable in view of the Section 22C which provides that the Permanent Lok Adalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law. According to the petitioner, as per Section 22D of the Act of 1987, the Permanent Lok Adalat is required to conduct conciliation proceedings before deciding the dispute on merit under the Act and in view of the above legal position, when the dispute cannot be settled being not

compoundable, the proceedings cannot be taken for the said subject matter in the Permanent Lok Adalat which is clear from reading of Section 22C and 22C. It is also submitted that in the present case, first information report has been lodged under Section 304A, I.P.C. and offence under Section 304A I.P.C. Is not compoundable, therefore, the claim-petitions filed by the claimants is not maintainable as the Permanent Lok Adalat has no jurisdiction to entertain the claim applications of the claimants. In addition to above, it is also submitted that the total claim of the claimants has been bifurcated in three claim cases so as to bring the claim within the jurisdiction of the Permanent Lok Adalat, as the Permanent Lok Adalat has jurisdiction to hear the claim upto the valuation of Rs.10,00,000/-

Reply has been filed by respondents no.2 to 4 to the writ petition. Respondents no.2 to 4 raised preliminary objection that the writ petition is pre-mature and is liable to be dismissed as the alleged objection regarding jurisdiction could be raised by the petitioner before the authority in the reply which they have been directed to file and, thereafter, the objections could be decided and then alone the petitioners may have cause to challenge the order of the said authority. It is also submitted that the petitioners have preferred criminal revision petition on the ground that no offence under Section304A IPC is made

out and on other side, the petitioners have challenged the proceedings before the Permanent Lok Adalat on the ground that offence is cognizable and is not compoundable. The respondents also submitted that the contention raised by the petitioners cannot be accepted in view of the fact that what is important is that the matter which is before the Permanent Lok Adalat, if that can be settled amicably irrespective of the fact that other consequences of the same incident resulting into an offence and which is not compoundable then the Permanent Lok Adalat cannot entertain the petition for compounding the offence which is prohibited by law. The consequences of tortious act may result into two consequences, (1) civil liability and (2) criminal liability. There is no bar in compounding the dispute so far as the civil liability is concerned. The petitioner also tried to submit that some of the offences which are resultant of the same act as of in this case are compoundable.

I considered the submissions of the learned counsel for the parties and perused the facts of the case as well as the relevant provisions of law.

The Permanent Lok Adalats are established under Chapter VIA of the Legal Services Authorities Act, 1987.

Section 22 C authorises the Permanent Lok Adalat to take cognizance of the cases when any party to a dispute may, before the dispute is brought before any court, make an application to the Permanent Lok Adalat for the settlement of dispute. The relevant part of Section 22 C is in proviso (1) and (2) of Section 22C, which are as under:-

> **"22C. Cognizance of cases by Permanent Lok Adalat-** (1) Any party to a dispute may, before the dispute is brought before any court, make an application to the Permanent Lok Adalat for the settlement of dispute:
>
> Provided that the Permanent Lok Adalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law:
>
> Provided further that the Permanent Lok Adalat shall also not have jurisdiction in the matter where the value of the property in dispute exceeds ten lakh rupees:"

A bare perusal of proviso (1) of Section 22C makes it clear that the Permanent Lok Adalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law and the language used clearly denotes that the jurisdiction of the Permanent Lok Adalat has not been with respect to the matter relating to offence not compoundable. In the present case, the claimants submitted claim for civil wrong and for that the matter can be compoundable by the parties. This aspect is not in dispute. Even if the criminal offence

cannot be compoundable even then in that very case, the civil claim which can be filed, can be compounded, is a settled position of law . The bar is against the compounding of offence and not against compounding of the civil dispute. Therefore, I do not find any force in the submission of the learned counsel for the petitioner that since criminal case cannot be compounded, therefore, the dispute which has been placed before the Permanent Lok Adalat, also cannot be entertained.

So far as pecuniary jurisdiction of the Permanent Lok Adalat is concerned, the proviso (2) provides the pecuniary limit of the Permanent Lok Adalat as Rs.10,00,000/-. If two persons or two or more persons are aggrieved against one incident, which gives them independent cause to claim damages or raise dispute then no law provides that both shall have to file the claim jointly. Even in case where there is chance of apportionment of compensation amount even then one can maintain the claim to the extent of his loss. In civil wrong, the parties may even relinquish their claim in addition to their having right to reduce the claim as per their wish without affecting the merit of the claim. In view of the above, if the Permanent Lok Adalat allowed the claimants to withdraw the claim petitions or permitted them to reduce the claim amount, that was done within the jurisdiction.

In view of the above, the writ petition of the petitioner is dismissed.

(PRAKASH TATIA),J.

mlt.